

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

|                             |                                |
|-----------------------------|--------------------------------|
| GERARDO SOLANA,             | :                              |
| Plaintiff                   | :                              |
| v.                          | : Case No. 3:07-cv-140-KRG-KAP |
| JOHN DOE, M.D., MOSHANNON   | :                              |
| VALLEY CORRECTIONAL CENTER, | :                              |
| <u>et al.</u> ,             | :                              |
| Defendants                  | :                              |
| <br>GERARDO SOLANA,         | :                              |
| Plaintiff                   | :                              |
| v.                          | : Case No. 3:07-cv-161-KRG-KAP |
| MICHAEL MILLWARD, WARDEN,   | :                              |
| M.V.C.C., <u>et al.</u> ,   | :                              |
| Defendants                  | :                              |

Report and Recommendation

Recommendation

Plaintiff has filed motions to reconsider the dismissal of these matters. The motions should be denied.

Report

Plaintiff is serving a 24 month term of imprisonment at the Moshannon Valley Correctional Center, imposed by the United States Parole Commission after plaintiff was found to be in technical violation of his parole, which was part of a sentence imposed on plaintiff in 1986 by the Eastern District Of New York. In addition to a habeas corpus petition challenging his confinement, Solana v. United States Parole Commission, 3:07-cv-84-KRG-KAP, plaintiff filed three civil complaints, the two listed above and Solana v. Department of Homeland Security, 3:07-cv-164-KRG-KAP.

Plaintiff represents that he returned Authorizations and objections to the Report and Recommendation in the above two cases. That is incorrect. Plaintiff returned one Authorization, in Solana v. Department of Homeland Security, 3:07-cv-164-KRG-KAP. If plaintiff had returned Authorizations in the two dismissed cases, his complaints would still have been properly dismissed for failure to state a claim. Plaintiff is not forbidden from filing a new complaint, but cannot revive the above-captioned ones by positing an incorrect factual history.

Pursuant to 28 U.S.C. § 636(b)(1), the parties are given notice that they have ten days to serve and file written objections to this Report and Recommendation.

DATE: \_\_\_\_\_

2 November 2007

Keith A. Pesto

Keith A. Pesto,  
United States Magistrate Judge

Notice by U.S. Mail to:

Gerardo Solana Reg No. 31189-053  
Moshannon Valley Correctional Center  
P.O. Box 2000  
Philipsburg, PA 16866-0798